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TAX COLLECTIONS AND UNEMPLOYMENT

by George W. Eckelberry

Prior to 1943, individuals filed their income tax returns annually for the preceding year and any tax due was payable during the next twelve months, in quarterly installments if desired. Persons on salaries received their income in full and the responsibility was upon them to finance the payment of the tax during the next year.

In 1943, the pay-as-you-go plan was inaugurated. In order to make the shift, Congress, after weeks of debate and compromise, voted to forgive 75 per cent of the 1942 or the 1943 tax, whichever was smaller. Individuals accordingly paid in 1943 the full tax for one year, plus 25 per cent of either 1942 or 1943, in order to be fully paid up.

Two reasons were advanced by the Administration for this important change. In the first place, it was common knowledge that the Treasury Department was unable to collect income taxes from many individuals who became insolvent or who were judgment proof. Such losses were known to be large. Collection at the source, through withholdings, was adopted as the method of preventing such losses. Secondly, and perhaps the more important consideration, was the fact that the Administration needed the additional 25 per cent in 1943 to finance the war program.

About this same time the Treasury Department announced a plan whereby it might in effect obtain a large portion of corporation income and excess profits taxes one year earlier. This was accomplished by introducing a new type of government security known as the "Tax Anticipation Certificate". These certificates, bearing a nominal rate of interest, could be purchased by corporations and applied later as payment on their heavy wartime taxes. During the war many corporations calculated their profits monthly or quarterly, determined the tax due and purchased these certificates to the amount of the tax.

As a result, during the war period many corporations were able at the end of the tax year to extinguish their tax liabilities by merely returning these certificates to the Treasury Department. In the meantime the Government had spent the money. Corporations and some individuals are continuing to buy tax certificates or Treasury savings notes, although not to the extent practiced during the war.

Most taxpayers approve the pay-as-you-go plan. We have no problem now of budgeting for the annual income tax. Our employers withhold from our salary checks and when our final return for the preceding year is

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prepared on March 15, we either owe only a small amount or are even entitled to a nominal refund. Moreover, we have the assurance and satisfaction of knowing that upon death our estates and families will not be subject to heavy retroactive income tax assessments.

II

But the pay-as-you-go plan, and the practice of many corporations of paying taxes currently through the purchase of tax certificates, may create an entirely new fiscal problem if the recession in business, with accompanying unemployment, becomes pronounced. That is because the one-year tax reserve, existing prior to 1943, is now greatly diminished.

If unemployment mounts, receipts from withholdings will drop proportionately. With many corporations paid up to date, any decline in business profits is immediately reflected in declining tax revenues. Government income, in short, is now extremely sensitive to the number of men gainfully employed, to the volume of trade and to the price level.

Formerly one year's tax collection was assured and was in the nature of a reserve adequate to carry the Government operations through short recessions such, for example, as that of 1921. We can no longer expect a one-year lag between the beginning of a recession and the decline in revenues. The decline will be immediate and substantial.

Coupled with a sudden decline in tax revenues, a recession will require the Government to make large refunds under the "Operating Loss Carry Back and Carry Forward" section of the Income Tax Law. A corporation or an individual with an operating loss for a particular year may apply this loss against the profits of the two prior years. It may be carried back two years and, if not needed for that year, the loss may then be carried back to the profits of the year immediately preceding. If not needed for either of the two previous years, the loss may be carried forward and applied against future profits.

For example, if a corporation shows an operating loss during 1949 it may deduct this loss from the profits reported for 1947, file an amended return for 1947 and claim a refund of taxes. If not needed to apply on 1947 the loss may be deducted from profits of 1948 and so on.

The principle underlying the "Operating Loss Carry Back and Carry Forward" law is essentially sound. It is a variation of the plan of taxing corporations on the average profits for a number of years, instead of on those for a particular twelve month period. It is a recognition of the fact that business income is irregular. The averaging plan taxes less during years of high profits, but continues to tax dur-

ing years of losses if the average for the statutory period is a net gain. No refunds are made. Our present system taxes to the limit each year and promises refunds during later years if losses are experienced.

III

The impact of any serious business recession on tax revenues is easily predictable. Revenues will decline sharply and quickly. Corporations and individuals showing losses will be entitled to refunds. We are vulnerable, should a major downward trend in business develop. No reserve or surplus has been created from the abnormally high tax revenues of the past several years. The more we have collected the more we have spent. We have naively assumed that high profits and high wages would continue indefinitely and that no surplus is necessary.

Surpluses in government have been traditionally regarded by taxpayers as unnecessary, and even dangerous. Any sizeable surplus is evidence, it is said, of over-taxation or perhaps failure to provide reasonably necessary governmental service. Moreover, we have been unwilling to trust public officials with the handling of excess balances. We have feared that they could not resist the temptation to engage in reckless spending. The simple fact is that prior to 1943 we did have a surplus of one year's tax collections.

The fear of fiscal surpluses has been dispelled, partially at least, by the prudent management of excess tax collections during the war years on the part of the government and legislatures of several states. Certain states now have balances which would go far in financing their governmental operations during a period of declining revenues for one or two years. Yet there is little criticism of these surpluses.

The "big debt" economists, following strictly the New Deal party line will, of course, ridicule any proposal that the Federal Government attempt to restore the one-year surplus which existed prior to 1943. If tax revenues decline, they will say, bonds should immediately be issued to provide "work projects" to maintain "full employment" to assure a high "national income". Thus, it is argued, large income tax collections would almost automatically be restored.

Unwittingly, perhaps, economists of this school would give further support to inflation and, what is more serious and alarming, to the creation of an economy of State Socialism. The larger the debt, the more certain the perpetuation of high income tax rates, and the more definite the trend to limit income to a subsistence level. More and more funds will be siphoned to Washington for redistribution by administrative agencies.

High tax rates discourage incentive to produce and this, of course, provides the excuse for more governmental planning and direction of economic activities. The end-result of a socialized State may be achieved by an ever mounting national debt. It is understandable that those who have no fear of a large national debt, because "we owe it to ourselves", are also usually ardent supporters of proposals that would extend the powers of the Federal Government in controlling our economy.

IV

Should the one-year tax surplus be restored? How otherwise can the Federal Government provide a cushion which will permit it readily to finance operations for an emergency period produced by a recession?

One plan would be that of appropriating a certain percentage of income tax collections, say 15 or 20 per cent, for retirement of the national debt. Bonds could be purchased in the market and in addition taxpayers could be given the privilege of paying income taxes in government bonds up to the prescribed percentage. This latter provision would also act to give support to the Government bond market.

Bonds acquired in these two ways could be kept "alive". They would not be retired by the Treasury as purchaser and thus, in a period of a few years the equivalent of one year's tax collections would be accumulated. With a decline in revenues these live bonds could be reissued to the amount necessary to meet the budgetary deficit. If not needed, they could be cancelled and in this way give badly needed support to the institution of individual enterprise.

It may soon become apparent that we paid a terrific price to be placed on the pay-as-you-go basis. Any budget approved by Congress now is likely to be thrown out of balance immediately by a downward business turn. Then deficit financing, by issuing bonds, will be urged again.

During this period of inflation a wise administration would have been making some provision for this contingency. Reducing the debt according to a systematic plan may be the solution. In any event we would not be taking any risk. For even modest debt reduction gives some hope that individual enterprise will be preserved and continue as the arterial circulation of the American way of life.

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By Frank C. Hanighen

March 2, 1949

FILIBUSTER: The great filibuster debate is on, but the real issue (which is not filibustering) seems to have been missed by most commentators and reporters. Few reported adequately the very thoughtful speech of Senator George on February 28, in which he noted the dangers of unqualified majority rule. The senior Senator from Georgia did not go on to discuss the difference between a republic and a democracy. But he did point out that the developing struggle in the Senate has crucial bearing on the survival of our Federal Republic and an Administration victory will certainly advance the fortunes of those who (whether they admit it or not) are working for the establishment of a totalitarian State. In whatever direction the tides of battle flow in the present parliamentary conflict, the issue must eventually be decided.

We doubt that the Republicans on the Hill have weighed the possibilities following a victory for cloture. Their parliamentary strategy is, of course, to divide the Democrats. The Republicans may prove right in their expectation that a beaten Southern bloc in Congress will vengefully join with them in the present session to defeat the Truman economic program. But, in their ardor to divide and rule, they have overlooked some unhappy long-run possibilities.

In this connection, the case of Congressman Rankin offers some lessons of which Minority Leader Martin's followers seem unaware. The Mississippi legislator, ousted from the Un-American Activities Committee, has retaliated by putting Speaker Rayburn on the spot with the Veterans Pension Bill. The Republicans are convulsed with delight. But, to our mind, the revolt of Rankin spells something much less agreeable, in the long run, to conservative Republicans.

Last summer, we reported the views of a Southern observer on the future of the States' Rights movement. If, he said, the Civil Rights program goes through Congress, the reaction of Southerners will sooner or later be a swing to the Left, rather than to the Right. Racism, he pointed out, can be combined with Socialism, as Hitler demonstrated. Rankin, for instance, has shown himself often in the past to be an economic Leftist -- as was Bilbo. Additionally, our friend argued, this Socialist-racist reaction will gradually be fed by forces of economic and political revolution now in process in the South. More negroes are getting the vote, and as a low-income group they will tend to back New Deal legislation. The decline of King Cotton, the rise of the CIO in the South, the habit of looking to Washington for funds -- all will drive the formerly conservative South towards the Left. And a shock like attempted enforcement of FEPC will turn the emotions of Southerners not only against negroes but also on a class basis against the "rich". The argument of our friend is impressive, and that is one reason why we wonder at the GOP joy over the filibuster debate and the capers of Representative Rankin.

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STATES' RIGHTS: Senator George reminded his colleagues that the upper chamber was not designed to be merely another legislative body, but a forum in which the forty-eight states should have permanent and equal representation, regardless of population and geography. To buttress his point, George quoted from a speech by the late Senator Frank Brandegee of Connecticut (who served in the Senate from 1905 to 1924), as follows: "Mr. President, I look at this right of debate not as a right, much less a privilege, which we are conferring upon ourselves as a matter of favor. I look upon it as a right which attaches to the sovereign states of the Union, each of which is represented here by two Senators, and whose sole method of putting its case

before the people of the United States and before this body is through the voice of its two Senators. So I say that this is the forum of the states. This is a federated government, in which the states reserved the right of equal suffrage in the Senate of the United States, and made that the only provision of the Constitution which never should be subject to amendment."

We discussed this point with a learned friend, a student of constitutional law and the literature on the subject. "I know of only one well-known writer who challenges the point of view stated by George and Brandegee", he remarked. "And who could that be?" quoth we. Our friend replied, "Professor Harold J. Laski".

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LABOR LAW: Often while surveying the hive of activity which is Capitol Hill do we wonder why the busy legislators do not -- in one grand gesture -- start a move to repeal rather than to pass laws. Many of these Members of Congress know full well that the statutes on which they labor interminably will only bring more trouble than the evil which they set out to correct, and will only result in the creation of more executive jobs. And, in their efforts to amend existing laws, it must occasionally occur to the law makers that no law at all would be better.

These reflections were inspired by the complicated wrangle over the Taft-Hartley law in which some Members want only the old Wagner Act, others a combination of Taft-Hartley and Wagner provisions, still others the Taft-Hartley Act untouched, etc. Yet no one in either chamber has called for wiping out both Taft-Hartley and Wagner Acts. Such a proposal is by no means academic. For it has been suggested by one of the most powerful unions in the country -- the United Mine Workers of America. In their Journal of July 15, 1948, the mine workers called on candidate Dewey to urge the repeal of both Wagner and Taft-Hartley Acts. And, the other day, we learned of one prominent industrialist, who privately advocates the same course. Certainly the babel of arguments on the Labor legislation would benefit from such a breath of fresh air. We do not suggest that any such move is capable of success at this moment. But the statement of the case for no-law might have a wholesome influence on the "let's pass a law" attitude both in Congress and among the people.

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EISENHOWER AND MARSHALL: They do say, in Washington, that Truman is telling his friends that he considers Eisenhower his best authority on military matters, and Marshall on foreign affairs. And then, those who like to draw -- or leap -- to conclusions, go on to remark that therefore Forrestal, who wants to stay on as Secretary of Defense, has a friend at court. Who? Well, Eisenhower's fulsome praise of Forrestal the other day could not have been merely academic. As Chairman of the Joint Chiefs of Staff, Eisenhower obviously wants a man in the Defense post with whom he believes he can work. Another conclusion is that Eisenhower's continued residence in Washington (few doubt that it will be permanent) make stronger General J. Lawton Collins' bid for the job of Chief of Staff, to succeed Bradley when the latter retires. Collins is now Deputy to Bradley and is a protege of Ike.

One inference leads to another -- and so people also come to the conclusion that General Mark Clark will succeed General Lucius Clay, as military governor of Germany. Clark has a hot competitor for this post in General A. C. Wedemeyer. It is agreed that either of these military figures would greatly improve our position in Germany. But Clark's chances are deemed better because he is an "Eisenhower man". Besides, ex-Secretary of State Marshall (whom Truman would presumably consult

on the matter) has reportedly never forgiven General Wedemeyer for his opposition to Marshall's policy in China. Yes, Truman's reliance on the two old wheel horses, Eisenhower and Marshall, is important.

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OPEN BIDDING: There are wholly justifiable actions taken by the U. S. Government to eliminate "cartels" of various sorts, and to police the free market, although the way the Anti-Trust division has been run often leads to a contrary conclusion. When the Administration last fall arraigned 17 New York banking houses under the anti-trust laws, many might pardonably have dismissed the whole affair as merely a campaign maneuver. Maybe it was, and perhaps there is no monopoly in the financing of America's blue-chip companies. Anyway, that is sub judice at the present time. However, we have found some impartial students of the investment field who have no stake in the issue, either as buyers or sellers, and these students believe that governmental action to ensure open competition in bidding for securities is very salutary. As they put it, one thing needed for the health of the capitalist system is a reduction of the cost of raising capital. Closed bidding and favoritism in high business circles has placed too great a premium on underwriting. Open bidding imparts vitality to this area of the free enterprise system.

The subject is of constant, timely interest, for the movement in behalf of open bidding is on the march. California recently required that public utilities companies advertise for bids for their issues. The movement gained its first big impetus in 1941 when the Securities and Exchange Commission adopted the so-called Rule W-50 which called for competitive bidding for securities issues of public utility holding and operating companies under SEC jurisdiction. (Critics, however, claim that the SEC has failed to interpret this rule as liberally as it should have.) In 1944, the Interstate Commerce Commission adopted a regulation requiring competition for railroad securities, and has granted few exemptions. In addition to California, many states have acted in a similar manner; for instance, New York, Colorado, Massachusetts, New Hampshire, Indiana and Illinois. At present Ohio has the subject up for discussion and legislation. Recently there have been demands for Federal legislation requiring competitive bidding for all issues of securities, whether public utility or not.

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NUREMBERG: In the pretentious prose of a member of the high bench, Justice Jackson proclaimed, in his recently published report on the Nuremberg trials, that "The principle of the Charter [of the Nuremberg tribunal], no less than its wide acceptance, establishes its significance as a step in the evolution of a law-governed society of nations". One step in this "evolution" was to deny to defendants the right of "defense of superior orders". Mr. Montgomery Belgion who has written a penetrating book on the subject of Nuremberg has revealed that even before the Nuremberg tribunal was constituted, the ground was being prepared for the elimination of this defense safeguard.

In a letter to the New English Weekly (February 3), Mr. Belgion writes: "In all likelihood many of your readers are unaware that it was only as recently as April, 1944, that the British Manual of Military Law, at Paragraph 443 of Chapter XIV, was quietly modified and the statement which had survived till then, that the perpetrator of a war crime could not be punished by the enemy if he had acted in obedience to 'superior orders' was removed. The corresponding American Basic Field Manual, Rules of Land Warfare, was changed in the same sense as late as November, 1944. That is to say, at the time of the commission of most of the war crimes and acts alleged to have been war crimes . . . not only was it illegal for anyone under German law to demur to the orders of a superior, but the validity of 'the defense of superior orders' was still recognized in the military law of Britain and the United States." So the iniquitous ex post facto principle was introduced by Jackson and his colleagues, as a step in the boasted "evolution" of their kangaroo law.

Book Events

Burke's Politics: Selected Writings and Speeches of Edmund Burke on Reform, Revolution and War; edited by Ross J. S. Hoffman and Paul Levack. New York: Alfred A. Knopf. \$4.75. Reviewed by J. M. Lalley.

"You cannot imagine", Lord Acton wrote to Mary Gladstone, "what Burke is for all of us who think about politics and are not wrapped up in the blaze and the whirlwind of Rousseau." The Count de Montalembert considered that next to Shakespeare Burke was the greatest embodiment of the English genius. Fitzjames Stephen observed that Burke affords us the only example of a man who won himself a great name as a literary artist and as a political philosopher with the same set of writings. Yet of all the important writers on politics he is the most neglected, even in an age as intensely political as our own. He is, as Stephen said, often quoted and seldom studied. The reasons are not difficult to discover. The virtues that make him so impressive in short passages, the sententious quality of his thought, the solemn cadences of his language, are precisely what make him so difficult for sustained reading. We have lost our appetite for the grand manner in English prose; it has perhaps been rendered unpalatable by its more recent and less expert practitioners. There is a further discouragement in the fact that the writings of Burke fill, all told, nearly twenty volumes. Thus the Messrs. Hoffman and Levack have done great service to Burke and for present day readers by bringing his more important ideas within reasonable compass, and so increasing our acquaintance of them.

Burke is not one of the political philosophers whose thought can be summarized in a paragraph, as for example the essential doctrines of Locke and Puffendorf were concentrated into the preamble to the Declaration of Independence. Burke was a sort of empiricist, whose first principles were formulated to meet the necessities of existing political situations. When this is understood, it is easy enough to grant him the virtue upon which he most prided himself; that is to say, consistency. It explains among other things his support of the American revolutionists against the Crown and his vehement opposition to the subsequent revolution in France. It ought not to be forgotten that Burke was an Irishman, allied by kinship and by marriage to the Irish Catholics who in his day were suffering under disabilities hardly less severe than those imposed by the notorious Nuremberg laws upon the German Jews. All the questions at issue between the colonists and the Crown -- taxation without representation, government without consent of the governed, and so on -- helped to emphasize the unnatural situation in Ireland where the majority of the population was refused the right of education, the right to hold public office, and even the right to property. The theoretical position which Burke was led to adopt in both instances was the same: that the rights and liberties represented by the British Constitution must apply equally to all who are governed under it.

Burke was both a liberal and a conservative in the stricter meaning of either term. He held that institutions arise out of the social experiences of men. Thus, whatever the form of the State, the true legislator is always the people. The art and purpose of government, then, is to employ existing and accepted institutions to the greatest public advantage, and this advantage is to be determined by the laws of justice and morality which are the same for all men at all times and everywhere. Liberty consists in the enjoyment of these advantages. In this sense the existing political order has a divine sanction and is therefore entitled to veneration. It may be improved or modified to permit the fuller exercise of the divinely ordained rights and duties of men; but because these rights and duties are acknowledged in institutions, the established order, or Constitution, may not be overthrown; for that would be to substitute the principle of force for that of justice.

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